

DEPARTMENT OF STATE INSTRUCTION

CONFIDENTIAL
(Security Classification)

NO. A-371 October 14, 1953

SUBJECT: Professions Clause Treaty of FCN with Japan

TO: Amembassy, TOKYO

1287

DEPARTMENT OF STATE A/ODC/MR

REVIEWED BY: *[Signature]* DATE: 9-2-50

RDS ☐ OF XOS ☐ DATE

ENCLOSURE EXISTING ☐ REASON(S)

CLASSIFIED ☐ UNCLASSIFIED ☒

USE OF FCN EXEMPTIONS ☐

Reference is made to Embassy's despatch 573 of September 29, 1953. Mr. Ben Bruce Blakeney, referred to in the despatch, has had discussions with Department officers, and on October 12, 1953 with Mr. Phleger, the Legal Adviser of the Department, concerning the problem which may face American lawyers in Japan.

The Department explained to Mr. Blakeney that it could not now take the position with the Japanese Government which he desired, that "state-licensed" as used in the United States reservation meant "licensed by a State". Referring to the Department's telegram 419 of August 18, 1953 to the Embassy, Department officers informed Mr. Blakeney that our interpretation of "state-licensed" was "licensed by any political entity"; that the position had been taken by the Department in the negotiation of the relevant article in the Danish FCN Treaty, upon which the reservation in the Japanese Treaty was patterned, as well as in the negotiation of the exchange of notes in the Japanese case. (Embassy Telegram 493 of August 24, 1953). In addition, Mr. Phleger indicated that the possible domestic political effects of such an action rendered it most unwise.

Mr. Blakeney stated that while consideration had been given to the idea of bringing a test case in the District of Columbia, he was convinced that it would be a mistake; if it were lost, the results might be exactly what he was seeking to avoid; and he appreciated Mr. Phleger's comment that even if he won it might be accompanied by the kinds of public controversy which would also be damaging.

The Department's officers stated that they were well aware of the important considerations underlying the desirability of having Americans continue to be able to practice their professions in Japan. Mr. Blakeney was informed that the Department would request the Embassy to watch carefully any developments in this field, such as the introduction of legislation in the Japanese Diet, designed to

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CLEARANCES:

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NA (Mr. Hemmendinger)

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to affect adversely the ability of Americans to practice the professions, and would instruct the Embassy to make appropriate representations, in those circumstances, designed to impress upon Japan the undesirability of so doing. Mr. Blakeney stated that he would discuss the matter further with Embassy officials upon his return to Tokyo.

The Embassy is requested to keep the Department apprised of any developments in this field, as they occur.

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DEPARTMENT OF STATE INSTRUCTION

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NO. A-515, December 15, 1953

SUBJECT Representation of U.S. Military and Civilian Personnel
by American Lawyers.

TO: The American Embassy, TAIPEI.

The Department has recently received several letters from Senator Lyndon B. Johnson, forwarding communications from his constituents in which they express their concern over jurisdictional arrangements for United States forces in Japan. There are enclosed copies of two of such letters and copies of the Department's replies. In the communication enclosed with Senator Johnson's letter of November 19, 1953, the problem is raised of the representation of United States military and civilian personnel and their dependents by American lawyers in the event they are tried in Japanese courts. In its reply the Department informed Senator Johnson that it would request the Embassy for a report on this matter.

The Department recognizes that as a consequence of the reservations to the professions clause of the FGE treaty, the Japanese may not be required to permit American nationals to practice law in Japan on the same basis as Japanese nationals. But it is the Department's understanding that at present no special restrictions are imposed in Japan on the practice of law by American nationals.

The Embassy is requested to furnish information concerning the availability of lawyers qualified to act as representatives of American military or civilian personnel or their dependents in the event that they are tried in Japanese courts. It is suggested that the Embassy include in its reply information not only on the availability of American lawyers but also on the availability of lawyers of Japanese and other nationalities who have a speaking knowledge of English. The Embassy is also requested to discuss with Japanese authorities the problem of representation of United States military and civilian personnel and their dependents by American lawyers.

Enclosures: *plus m.c.* **NOTE (ATTN)**

1. Copy of letter dated Nov. 19 from Sen. Johnson
2. Copy of Department's reply of Nov. 30, 1953
3. Copy of letter dated Nov. 24, from Sen. Johnson
4. Copy of Department's reply of Dec. 2, 1953.

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Correction made
by DC/K
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APPROVED BY:

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